



MEMORANDUM

To: Mayor and Members of Council

From: Claudia Storto, City Solicitor and Director of People Services
Giulio Cescato, Director of Planning and Urban Design

Prepared by: Catherine Conrad, Counsel, Legal Services Department

Date: October 21, 2024

Re: Draft Plan of Subdivision application submitted by 1628740 and 1628741 Ontario Inc. to permit a 32-unit residential subdivision at 2716 and 2730 Elgin Mills Road East (Ward 2) File PLAN 23 150156

RECOMMENDATION:

1. That the recommendations of the report dated September 17th, 2024 in respect of the above-mentioned application be approved, subject to amended conditions of draft approval attached to this memorandum as Attachment “A”.

BACKGROUND:

The September 17, 2024 Development Services Committee agenda included a recommendation report on the above-noted application. Committee did not vote on the recommendation report after hearing a deputation from the representative of the abutting developer, Poetry Living (Abbey Lane) Limited (“Poetry”) and receiving correspondence from the Holborn Group, representing Poetry, objecting to the approval of the draft plan of subdivision unless and until Council has imposed an additional condition of draft plan approval, requiring the applicant “to pay their proportionate share of the costs incurred by Poetry Living (Abbey Lane) Limited prior to registration of their plan”. The letter from the Holborn Group indicates that they were required to acquire additional lands to allow a secondary connection to Woodbine Avenue and

that they were required to install services to accommodate future development of abutting properties, including the plan of subdivision referred to above. The applicant does not dispute that their subdivision derives benefit from the abutting subdivision, and is prepared to negotiate appropriate compensation for some but not for all of the services/infrastructure claimed by Poetry. No negotiations between the parties have occurred since 2018.

The recommended conditions of draft plan approval (as amended, attached as Attachment “A”) include a requirement, in condition 11.1, that the applicant obtain a clearance from the Trustee of the Cathedraltown West Landowners Group. Ensuring that developments which provide services to accommodate other developments are fairly compensated for upfront services and infrastructure is the primary purpose of cost sharing agreements among developers. The subject lands and the lands developed by Poetry are included within the area governed by the Cathedraltown West Landowners Group agreement. The applicants in the subject application are participating members of the Group. Poetry is not a member of the Group. Holborn is seeking to have the applicant enter into another cost sharing agreement, separate and apart from the Cathedraltown West Landowners Group cost sharing agreement. This agreement would be between Poetry and the applicant and potentially only one other landowner to the west of Poetry’s development. Staff do not recommend requiring the applicant to enter into a cost sharing agreement that does not currently exist.

The City abandoned its previous practice of using “best efforts” clauses in subdivision agreements to ensure that benefitting developments paid their fair share of the cost of infrastructure provided by others, at least 20 years ago, as it was administratively onerous and fraught with legal risk. With cost sharing agreements in common usage among developers, “best efforts” commitments were no longer necessary or appropriate. Allocation of costs among developers is best left to the developers.

Accordingly, we do not recommend adding a condition to the conditions of draft approval set out in Appendix A to this memorandum, to require the applicant to enter into a further cost sharing agreement and make payments outside of the structure of the Cathedral West Landowners Cost Sharing Agreement.

Amended Conditions of Draft Approval

The conditions of draft approval attached to the report on the September 17th DSC agenda have been amended slightly, as follows, not related to Holborn's request for an additional condition regarding contribution for infrastructure:

- Several conditions have had minor wording changes (1.7, 10.4, 10.13, 10.15, 10.20)
- New condition 11.4 – requiring the conveyance of Block 9 to the City
- New condition 11.5 – requiring dedication of the 0.3 m reserve as public highway
- Removal of condition 15.1

Claudia Storto
City Solicitor, Director of People Services

Giulio Cescato, M.C.I.P., R.P.P.
Director of Planning and Urban Design

Attachment "A"

Attachment "A": Draft Conditions of Draft Plan of Subdivision Approval

THE CONDITIONS OF THE CITY OF MARKHAM TO BE SATISFIED PRIOR TO RELEASE FOR REGISTRATION OF PLAN OF SUBDIVISION 19TM-23009, 1628740 and 1628741 ONTARIO INC. ARE AS FOLLOWS:

1.0 General

- 1.1 Approval shall relate to a draft plan of subdivision prepared by KLM Planning Partners Inc. identified as Project No. P-3367, dated December 18, 2023, last Revised March 25, 2024 subject to outstanding City comments being addressed. The draft plan may be further redlined revised, if necessary, in order to meet the City's requirements.
- 1.2 This draft approval shall apply for a maximum period of five (5) years from date of issuance by the City, and shall accordingly lapse on XXX, 2029 unless extended by the City upon application by the Owner.
- 1.3 The Owner acknowledges and understands that prior to final approval of this Plan of Subdivision, an amendment to the city's zoning by-laws to implement the plan shall have come into effect in accordance with the provisions of the Planning Act.
- 1.4 The Owner shall enter into a Subdivision Agreement with the City with terms and conditions satisfactory to the City of Markham.
- 1.5 The Owner agrees to obtain required approvals from York Region and any other applicable public agencies to the satisfaction of the Director of Engineering.
- 1.6 Prior to the earlier of the execution of a pre-servicing or subdivision agreement within this draft Plan of Subdivision, the Owner shall prepare and submit to the satisfaction of the City of Markham, all technical reports, studies, and drawings, including but not limited to, traffic studies, functional traffic designs, stormwater management reports, functional servicing reports, design briefs, detailed design drawings, noise studies, servicing and infrastructure phasing plan, etc., to support the draft Plan of Subdivision. The Owner agrees to revise the draft Plan(s) of Subdivision as necessary to incorporate the design and recommendations of the accepted technical reports, studies, and drawings.

- 1.7 The Owner shall implement the designs and recommendations of the accepted technical reports/studies submitted in support of the draft Plans of Subdivision including but not limited to, traffic studies, functional traffic design study, stormwater management reports, functional servicing reports, design briefs, detailed design drawings, noise studies, to the satisfaction of the City of Markham, and at no cost to the City.

The Owner agrees to revise the draft Plan of Subdivision as necessary to incorporate the recommendations to implement or integrate any recommendations from the above studies, and drawings.

- 1.8 The Owner agrees to design the watermain system to service the development will have a minimum of two independent water supply points to provide for adequate system redundancy and looping for domestic and fire protection purposes, to the satisfaction of the Director of Engineering.
- 1.9 The Owner shall design and construct all required relocations of, and modifications to existing infrastructure, including but not limited to, watermains, light standards, utilities, stormwater management facilities and roads to the satisfaction of, and at no cost to, the City of Markham.
- 1.10 The Owner agrees not to apply for any building permits until the City is satisfied that adequate road access, municipal water supply, sanitary sewers, and storm drainage facilities are available to service the proposed development as required by the City's By-law 2005-104, as amended.
- 1.11 The Owner shall agree in the Subdivision Agreement to pay to the City, all required fees, in accordance with the City's Fee By-Law 211-83, as amended by Council from time to time.
- 1.12 The Owner shall agree in the Subdivision Agreement or Pre-Servicing Agreement, whichever comes first, to submit financial security for each phase of the draft Plan of Subdivision as required by the City of Markham prior to the construction of municipal infrastructure required to service that phase of development.
- 1.13 The Owner covenants and agrees to enter into a construction agreement and/or encroachment agreement or any other agreement deemed necessary to permit construction of services, roads, stormwater management facilities or any other services that are required external to the draft plan of subdivision (or site plan) and that are required to service the proposed development, to the satisfaction of the Director of Engineering and the City Solicitor.
- 1.14 The Owner agrees to obtain a road occupancy permit if required and/or permission or license to enter, from the external landowners prior to commencing the External Works to the satisfaction of the Director of Engineering, Director of Operations and City Solicitor. The Owner shall further agree in the Subdivision Agreement to pay all costs associated with the construction of the External Works to the satisfaction of the Director of Engineering.

2.1 **Transportation Engineering - Roads**

- 2.1 The road allowances within the Plan of Subdivision shall be named to the satisfaction of the City and Regional Municipality of York (“Region”).
- 2.2 The Owner agrees to design and construct all municipal roads and services in accordance with City standards and specifications.
- 2.3 The Owner shall provide an updated functional design and engineering design to include a continuous concrete sidewalk on the south side of Concetta Conte Avenue across the full frontage of this draft plan to the satisfaction of the Director of Engineering. Further, the Owner shall covenant and agree in the Subdivision Agreement to design and construct the complete sidewalk in accordance to the approved drawings as applicable.

3.0 Development Engineering – Municipal Services

- 3.1 The Owner shall covenant and agree to design and construct all municipal services in accordance with City standards and specifications.
- 3.2 Prior to the release for registration of the Draft Plan of Subdivision, the Owner shall demonstrate to the satisfaction of the City of Markham that two independent water supply points for adequate redundancy and looping for domestic and fire protection purposes will be provided.
- 3.3 The Owner agrees not to apply for any building permits until the City is satisfied that adequate road access, municipal water supply, sanitary sewers, and storm drainage facilities are available to service the proposed development as required by the City’s By-law 2005-104, as amended.
- 3.4 The Owner shall agree in the Subdivision Agreement to revise and/or update the accepted functional servicing and stormwater management reports, if directed by the City in the event that the Director of Engineering determines that field conditions are not suitable for implementation of the servicing and stormwater management strategies recommended in the previously accepted functional servicing and stormwater management reports.
- 3.5 The Owner shall covenant and agree in the Subdivision Agreement that if the proposed sewers connect to existing downstream sewers that are not assumed by the City, to undertake and pay for a sewer video inspection program for the existing sewers to the satisfaction of the Director of Engineering. The Owner further agrees to do the sewer video inspection:
 - a) Prior to the connection being made;

- b) Upon the removal of the temporary bulkhead or as directed by the Director of Engineering;
and
- c) Upon all roads, parking lots, driveways in the Owners Subdivision having been paved to the final grades, sidewalks, walkways, multi-use paths constructed and boulevards sodded.

The Owner further agrees to provide securities for the video inspection and for flushing and cleaning the existing downstream sewers to the satisfaction of the Director of Engineering.

4.0 Development Engineering - Lands to be Conveyed to the City / Easements

- 4.1 The Owner shall grant required easements to the appropriate authority for public utilities, drainage purposes or turning circles, upon registration of the plan of subdivision. The owner shall also provide for any easements and works external to the draft Plan of Subdivision necessary to connect watermains, storm and sanitary sewers to outfall trunks and stormwater management facilities to the satisfaction of the City.

5.0 Development Engineering – Utilities

- 5.1 The Owner shall agree in the Subdivision Agreement that hydro-electric, telephone, gas and television cable services, and any other form of telecommunication services shall be constructed at no cost to the City as underground facilities within the public road allowances or within other appropriate easements, as approved on the Composite Utility Plan, to the satisfaction of the City of Markham and authorized agencies.
- 5.2 The Owner shall agree in the Subdivision Agreement that hydro-electric, telephone, gas and television cable services, and any other form of telecommunication services shall be constructed at no cost to the City as underground facilities within the public road allowances or within other appropriate easements, as approved on the Composite Utility Plan, to the satisfaction of the City of Markham and authorized agencies.
- 5.3 The Owner shall agree in the Subdivision Agreement to enter into any agreement or agreements required by any applicable utility companies, including Powerstream, Enbridge, telecommunications companies, etc.
- 5.4 The Owner shall agree in the Subdivision Agreement to facilitate the construction of Canada Post facilities at locations and in manners agreeable to the City of Markham in consultation with Canada Post, and that where such facilities are to be located within public rights-of-way they

shall be approved on the Composite Utility Plan and be in accordance with the Community Design Plan.

- 5.5 The Owner shall agree in the Subdivision Agreement to include on all offers of purchase and sale a statement that advises prospective purchasers that mail delivery will be from a designated Community Mailbox. The Owners will further be responsible for notifying the purchasers of the exact Community Mailbox locations prior to the closing of any home sale.
- 5.6 The Owner shall covenant and agree in the Subdivision Agreement to provide a suitable temporary Community Mailbox location(s), which may be utilized by Canada Post until the curbs, sidewalks and final grading have been completed at the permanent Community Mailbox locations. This will enable Canada Post to provide mail delivery to new residents as soon as homes are occupied.
- 5.7 The Owner acknowledges that standard community mailbox installations are to be done by Canada Post at locations approved by the municipality and shown on the Composite Utility Plan. The Owner agrees that should it propose an enhanced community mailbox installation, any costs over and above the standard installation must be borne by the Owner, and be subject to approval by the City in consultation with Canada Post.
- 5.8 The Owner covenants and agrees that it will permit any telephone or telecommunication service provider to locate its plant in a common trench within the proposed subdivision prior to registration provided the telephone or telecommunications services provider has executed a Municipal Access Agreement with the City. The Owner shall ensure that any such service provider will be permitted to install its plant so as to permit connection to individual dwelling units within the subdivision as and when each dwelling unit is constructed.

6.0 Environmental Engineering - Environmental Clearance

- 6.1 The Owner shall agree in the Subdivision Agreement to retain a "Qualified Person" to prepare all necessary Environmental Site Assessments (ESA) and file Record(s) of Site Condition with the Provincial Environmental Site Registry for all lands to be conveyed to the City. The "Qualified Person" shall be defined as the person who meets the qualifications prescribed by the *Environmental Protection Act* and O. Reg. 153/04, as amended. The lands to be conveyed to the City shall be defined as any land or easement to be conveyed to the City, in accordance with the City's Environmental Policy and Procedures for Conveyance of Land to the City Pursuant to the Planning Act.
- 6.2 Prior to the earlier of the execution of a pre-servicing agreement or Subdivision Agreement, the Owner agrees to submit Environmental Site Assessment (ESA) report(s) prepared by a Qualified Person, in accordance with the Environmental Protection Act and its regulations and all applicable standards, for all lands to be conveyed to the City for peer review and concurrence.

- 6.3 Prior to the earlier of the execution of a pre-servicing agreement or Subdivision Agreement of a phase within the draft Plan of Subdivision, the Owner agrees to submit environmental clearance(s) and Reliance Letter(s) from a Qualified Person to the City for all lands or interests in lands to be conveyed to the City to the satisfaction of the City of Markham. The Environmental Clearance and Reliance Letter will be completed in accordance with the City's standard and will be signed by the Qualified Person and a person authorized to bind the Owner's company. The City will not accept any modifications to the standard Environmental Clearance and Reliance Letter, except as and where indicated in the template.
- 6.4 The Owner agrees that if, during construction of a phase within the draft Plan of Subdivision, contaminated soils or materials or groundwater are discovered, the Owner shall inform the City of Markham immediately, and undertake, at its own expense, the necessary measures to identify and remediate the contaminated soils or groundwater, all in accordance with the Environmental Protection Act and its regulations, to the satisfaction of the City of Markham and the Ministry of the Environment, Conservation and Parks.
- 6.5 The Owner shall agree in the Subdivision Agreement to assume full responsibility for the environmental condition of the lands comprising the draft Plan of Subdivision. The Owner shall further agree in the Subdivision Agreement to indemnify and save harmless the City, its directors, officers, Mayor, councilors, employees and agents from any and all actions, causes of action, suite, claims, demands, losses, expenses and damages whatsoever that may arise either directly or indirectly from the approval and assumption by the City of the municipal infrastructure, the construction and use of the municipal infrastructure or anything done or neglected to be done in connection with the use or any environmental condition on or under lands comprising the draft Plan of Subdivision, including any work undertaken by or on behalf of the City in respect of the lands comprising the draft Plan of Subdivision and the execution of this Agreement.
- 6.6 Prior to the conveyance lands to the City, the Owner shall agree to provide to the City, a Letter of Acknowledgement of the Record of Site Condition from the Ministry of Environment, Conservation and Parks (MECP) for the lands to be conveyed to the City.

7.0 Streetlight Types - Municipal Engineering

- 7.1 The Owner shall agree in the Subdivision Agreement to contact the City of Markham prior to commencing the design for streetlighting to confirm the type(s) of poles and luminaires to be provided for different streets and/or lanes.
- 7.2 The Owner shall covenant and agree in the subdivision to include in the building permit application all mitigation recommendation from the geotechnical consultant to waterproof basements which are below the ground water to the satisfaction of the Chief Building Official

on a lot specific basis. The Owner shall further covenant and agree that the acceptance of these measures will be subject to approval from the Chief Building Official.

8.0 Fire

- 8.1 Firebreak lots/blocks shall be designated within a subdivision plan agreement, to the satisfaction of the Fire Services.
- 8.2 The adequacy and reliability of water supplies, fire hydrant and fire department connection locations shall be subject to the review and approval of the Fire Services.
- 8.3 Fire hydrants for all developments shall be spaced at intervals not exceeding 90m. Fire hydrants shall be located at the beginning/end of each lane.
- 8.4 The Owner shall acknowledge and agree that building permits will not be issued for lands in any stage of development until the Director of Building Standards has been advised by the Fire Services that there is an adequate water supply for firefighting operations and two separate, remote and unobstructed accesses is available.
- 8.5 No obstructions shall be permitted at either access into the development for Fire Services use once construction has commenced above foundations.
- 8.6 To ensure reliability of access for Fire Services vehicles under all conditions, two full moves and unobstructed means of street access, independent of one another shall be provided into the development. If less than two full moves accesses are provided, each dwelling within the development shall be fully equipped with an automatic sprinkler system, designed in accordance with NFPA 13.
- 8.7 A townhouse building shall not exceed a distance of 45m in length.

9.0 Waste

- 9.1 The Owner acknowledges that all garbage, recyclables and organic materials shall be collected by the City once weekly in accordance with the City's collection schedule, as it may be amended from time to time. Effective January 1, 2026, in accordance with Ontario Regulation 391/21: BLUE BOX, collection of recyclables shall be the obligation of product producers. The Owner is responsible for contacting the Resource Productivity and Recovery Authority, requesting information regarding the organization responsible for providing the site with recycling collection, and establishing recycling collection services.
- 9.2 The Owner agrees to purchase from the City two (2) recycling containers, one (1) green bin and one (1) kitchen collector per dwelling unit, so that each resident may participate in the City's waste management program. Furthermore, the Owner shall ensure that the recycling containers,

green bins, kitchen collectors and educational materials provided by the City are deposited in each dwelling unit on or before the date of closing or new occupancy, whichever occurs first.

- 9.3 The Owner shall ensure that upon dwelling occupancy, unobstructed roadway access, in accordance with the City's design requirements, will be provided for the safe passage of municipal waste collection vehicles on the designated collection day.
- 9.4 The Owner acknowledges, that at times when the required access can not be provided, the Owner shall be responsible for moving all residential waste from the occupied dwellings to an alternate location, approved by the City Official, at the Owner's expense, for collection by the City.

10.0 Urban Design

Tree Inventory and Tree Preservation Plan

- 10.1 The Owner shall submit for approval a Tree Inventory and Tree Preservation Plan to the satisfaction of the City's Director of Planning and Urban Design in accordance with the City Streetscape Manual dated 2009, as amended from time to time.
- 10.2 The Owner shall submit a site grading plan showing the trees to be preserved based on the approved Tree Preservation Plan prior to the issuance of a Top Soil Stripping Permit, Site Alteration Permit or Pre-Servicing Agreement, to the satisfaction of the City's Director of Planning and Urban Design.
- 10.3 The Owner shall obtain written approval from the City's Director of Planning and Urban Design prior to the removal of any trees or destruction or injury to any part of a tree within the area of the draft plan.
- 10.4 The Owner shall submit for approval, as part of the Tree Inventory and Tree Preservation Plan, and in accordance with the City of Markham Streetscape Manual, a tree compensation schedule detailing replacement and enhancement planting, or the replacement value, of any injured or destroyed trees based on the following:
- a) Trees larger than 20cm at breast height (DBH) shall be replaced at a rate in accordance with the Progressive Aggregate Caliper Method.
 - b) All trees greater than 20cm diameter at breast height (DBH) shall have an individual replacement rate submitted to the City by an ISA Certified Arborist in accordance with the Progressive Aggregate Caliper Method as per the City of Markham Tree Preservation By-law 2023-164.
 - c) Where the site does not allow for the required replacements, the City will accept a credit for tree planting on alternative sites.
 - d) The requirement for the replacement or equivalent economic value following

unauthorized tree removal or damage shall be determined by the City.

Community Design

- 10.5 The Owner shall implement and incorporate all requirements of the approved Cathedral Community Design Plan, dated October 2009, approved August 30, 2024, into all landscape plans, architectural control guidelines, engineering plans and any other required design documents.
- 10.6 The Owner shall retain a design consultant to prepare Architectural Control Guidelines to be submitted to the City's Director of Planning and Urban Design for approval prior to execution of the Subdivision Agreement.
- 10.7 The Architectural Control Guidelines shall include provisions requiring buildings to comply with the City's Bird Friendly Guidelines.
- 10.8 The Owner shall retain a design consultant to prepare Architectural Control Guidelines that incorporate age-friendly design elements to comply with the City's Age-Friendly Design Guidelines.
- 10.9 The Architectural Control Guidelines shall include provisions requiring a minimum of 5% of the low-rise product to be limited to having 2 risers or less (not including the door threshold) to the level of the porch. The architectural design and site grading shall be proposed to accommodate with these requirements.
- 10.10 The Owner shall retain a design consultant acceptable to the City's Director of Planning and Urban Design to implement the Architectural Control Guidelines.
- 10.11 Plans submitted for model home permits for any building within the Draft Plan of Subdivision shall bear an approval stamp identifying the architectural company retained for architectural control and the signature of the control architect. The approval stamp shall certify that the floor plans, building elevations and site plans are designed in accordance with the approved architectural control guidelines.
- 10.12 The Owner shall ensure that the design architect for any buildings within this Draft Plan of Subdivision shall not also assume the role of control architect for this Draft Plan of Subdivision.
- 10.13 The Owner acknowledges and agrees to submit an architectural package to the satisfaction of the Director of Planning & Urban Design, including, block reference plans, floor plans, and elevation drawings clearly identifying all elements of the proposed townhouse including but not limited to appropriately screened utility metres, colour/material package, and site grading for all townhouse blocks identified in the Architectural Control Guidelines that requires enhanced treatments.
- 10.14 All architectural drawings shall be stamped by a Control Architect, to the satisfaction of the City's Director of Planning & Urban Design. The architectural package shall be submitted at either:

- a) During the Technical Review (TEC) application stage
- b) After the execution of the Subdivision Agreement

Landscape Works

- 10.15 Prior to execution of the Subdivision Agreement, the Owner shall submit landscape plans prepared by a qualified landscape architect based upon the approved design plans for all landscape/streetscape works, to the satisfaction of the Director of Planning and Urban Design, and including the following:
- a) For all public streets, streetscape plan and street tree planting in accordance with the City Streetscape Manual dated June 2009;
 - b) 1.8m high privacy wood screen fencing, as required;
 - c) For all corner lots provide privacy wood screen corner lot fencing, as required;
 - d) Noise attenuation fencing, as required;
 - e) For all lots backing or flanking onto the SWM Facility or MTO setback (Block 9), a 1.5m high galvanized steel chain-link fence (footing and fencing) shall be placed on public property, as determined appropriate by the City's Director Planning and Urban Design;
 - f) For areas where a galvanized steel chain link fence meets a privacy or acoustic fence, the galvanized steel chain link fence shall overlap the abutting privacy or acoustic fence by 0.5 m and provide a separate footing to deter entrance to the SWM Facility and/or MTO setback (Block 9) and minimize conflicts with the privacy or acoustic fence foundation, as determined appropriate by the City's Director Planning and Urban Design;
 - g) For a 1.5m walkway to be provided within the east section of the Street 1 Right-of-Way, between Concetta Conte Avenue and Elgin Mills Rd E, in accordance with Urban Design and Transportation requirements;
 - h) For all lane-based townhouses, corner lots, and gateway lots as identified in the Architectural Control Guidelines, provide a front yard landscaping plan with low maintenance planting species in order to reduce need for front yard lawn mowing and achieve the minimum landscape coverage for each lot;
 - i) Any other landscaping as determined by the Director of Planning and Urban Design.
- 10.16 The Owner shall construct all landscape works in accordance with the approved plans at no cost to the City.
- 10.17 The Owner shall not permit their builders to charge home purchasers for the items listed in Condition 10.15.
- 10.18 The Owner shall include in all agreements of purchase and sale the following clause:

“PURCHASERS ARE ADVISED THAT AS A CONDITION OF APPROVAL OF THE SUBDIVISION WITHIN WHICH THIS LOT IS LOCATED, THE CITY HAS REQUIRED THE DEVELOPER TO UNDERTAKE AND BEAR THE COST OF THE FOLLOWING ITEMS:

STREET TREES (TREES PLANTED IN THE CITY BOULEVARD OR IN ADJACENT PUBLIC LANDS OR PRIVATE LOTS to meet 10.15 a).

FENCING AS REQUIRED BY THE CITY.

TREE PLANTING IN REAR YARDS (IF SPECIFICALLY REQUIRED BY THE CITY).

NOISE ATTENUATION FENCING AS REQUIRED.

THE DEVELOPER HAS BORNE THE COST OF THESE ITEMS AND THE HOMEPURCHASER IS NOT REQUIRED TO REIMBURSE THIS EXPENSE.”

Financial

- 10.19 Prior to execution of the Subdivision Agreement, the Owner shall provide a Letter of Credit, in an amount to be determined by the City’s Director of Planning and Urban Design, to ensure compliance with applicable tree preservation, tree compensation, fencing, streetscape, buffer and other landscaping requirements.

Parks and Open Space

- 10.20 The Owner covenants and agrees that the parkland dedication requirement for the entire Subdivision within 2718 and 2730 Elgin Mills Road East is 0.054 hectares (the “Required Parkland”), which is equivalent to 5% of the development land area of 1.074 hectares. This is calculated as follows:

$$1.074 \text{ hectares} \times 5\% \text{ of land area} = 0.054 \text{ hectares}$$

The Owner acknowledges and agrees that the Required Parkland will be provided through payment of cash-in-lieu of parkland (the "CIL Payment"), at equivalent market value of 5% of the lands included in the plan of subdivision. The Owners agree that reconciliation of the parkland dedication requirement through a CIL payment shall be refined and approved through a the subdivision agreement.

11.0 Other City Requirements

- 11.1 That the Owner covenants and agrees to provide written clearance from the Trustee of the Cathedral West Landowners Group respecting all of the lands within the draft plan, prior to registration of the draft plan or execution of the subdivision agreement for the proposed development or any portion of the subject lands within the draft plan, whichever comes earlier, to the satisfaction of the Director of Planning and Urban Design.

11.2 The Owner shall provide and post display plans in all sales offices which clearly indicate the location of the following facilities in relation to the lot being purchased, prior to any Agreements of Purchase and Sale being executed by the Owner, a builder, or their real estate agents:

Parks by type, including a Park Concept Plan and Streetscape Plans; stormwater management facility and related facilities; schools by type; place of worship sites; other institutional sites by type; commercial sites by type; other surrounding land uses and facilities as specified by the City; existing or future; arterial and collector roads, transit routes and stops; City approved sidewalk, walkway and bike route locations; City approved postal box and utility furniture locations or possible locations if prior to approval; City lot grading standards.

All display plans shall be reviewed and approved at the sales office by City staff, prior to the displaying at the sales office.

11.3 The Owner shall covenant and agree in the Subdivision Agreement to include warning clauses in agreements of purchase and sale for all units with single car garages advising purchasers of the following:

- a) the City's parking by-law requires a minimum of two parking spaces, one in the driveway and one in the garage;
- b) the City's zoning by-law restricts the width of the driveway, this width does not allow two cars to park side by side; and,
- c) overnight street parking will not be permitted unless an overnight street parking permit system is implemented by the City.

11.4 The Owner shall covenant and agree in the Subdivision Agreement to convey Block 9 to the City, free of all costs and encumbrances.

11.5 That the 0.3m reserve across part of the Concetta Conte Avenue frontage of the subject lands be dedicated as public highway.

12.0 Canada Post

12.1 The Owner/developer agrees to include on all offers of purchase and sale, a statement that advises the prospective purchaser that mail delivery will be from a designated Community Mailbox.

12.2 The Owner/developer will be responsible for notifying the purchaser of the exact Community Mailbox locations prior to the closing of any unit sale.

12.3 The Owner/developer will consult with Canada Post Corporation to determine suitable locations for the placement of Community Mailbox and to indicate these locations on the appropriate servicing plans.

12.4 The Owner/developer will provide the following for each Community Mailbox site and include these requirements on the appropriate servicing plans:

- a) An appropriately sized sidewalk section (concrete pad) to place the Community Mailboxes on.
 - b) Any required walkway across the boulevard.
 - c) Any required curb depressions for wheelchair access.
- 12.5 The Owner/developer further agrees to determine and provide a suitable temporary Community Mailbox location(s), which may be utilized by Canada Post until the curbs, sidewalks and final grading have been completed at the permanent Community Mailbox locations. This will enable Canada Post to provide mail delivery to the new homes as soon as they are occupied.
- 12.6 The Owner/developer further agrees to provide Canada Post at least 60 days' notice prior to the confirmed first occupancy date to allow for the community mailboxes to be ordered and installed at the prepared temporary location.

13.0 York Region

Clauses to be Included in the Subdivision Agreement

- 13.1 The Owner shall save harmless the City of Markham and York Region from any claim or action as a result of water or sanitary sewer service not being available when anticipated.
- 13.2 The Owner shall agree to advise all potential purchasers of the existing and future introduction of transit services. The Owner/consultant is to contact YRT Contact Centre (tel. 1-866-668-3978) for route maps and the future plan maps.
- 13.3 The Owner shall agree that prior to the development approval of Blocks 1 and 9, that access to Blocks 1 and 9 shall be via Street "1" (the internal road network) and direct access to Elgin Mills Road will not be permitted.
- 13.4 The Owner shall agree to implement the noise attenuation features as recommended by the noise study and to the satisfaction of Development Engineering.
- 13.5 The Owner shall agree that where berm, noise wall, window and/or oversized forced air mechanical systems are required, these features shall be certified by a professional engineer to have been installed as specified by the approved Noise Study and in conformance with the Ministry of Environment guidelines and the York Region Noise Policy.
- 13.6 The following warning clause shall be included with respect to the lots or blocks affected:
- "Purchasers are advised that despite the inclusion of noise attenuation features within the development area and within the individual building units, noise levels will continue to increase, occasionally interfering with some activities of the building's occupants".
- 13.7 Where noise attenuation features will abut a York Region Right-Of-Way, the Owner shall agree in wording satisfactory to York Region's Development Engineering, as follows:
- a) That no part of any noise attenuation feature shall be constructed on or within the York Region Right-of-Way;

- b) That noise fences adjacent to York Region roads may be constructed on the private side of the 0.3 metre reserve and may be a maximum 2.5 metres in height, subject to the area municipality's concurrence;
 - c) That maintenance of the noise barriers and fences bordering on York Region Right-Of-Way's shall not be the responsibility of York Region.
- 13.8 The Owner shall agree to be responsible for determining the location of all utility plants within York Region Right-Of-Way and for the cost of relocating, replacing, repairing and restoring any appurtenances damaged during construction of the proposed site works. The Owner must review, or ensure that any consultants retained by the Owner, review, at an early stage, the applicable authority's minimum vertical clearances for aerial cable systems and their minimum spacing and cover requirements. The Owner shall be entirely responsible for making any adjustments or relocations, if necessary, prior to the commencement of any construction.

Conditions to be Satisfied Prior to Final Approval

- 13.9 The road allowances included within the draft plan of subdivision shall be named to the satisfaction of the City of Markham and York Region.
- 13.10 The Owner shall provide to the Region the following documentation to confirm that water and wastewater services are available to the subject development and have been allocated by the City of Markham:
- a) A copy of the Council resolution confirming that the City of Markham has allocated servicing capacity, specifying the specific source of the capacity, to the development proposed within this draft plan of subdivision; and
 - b) A copy of an email confirmation by a City of Markham staff member stating that the allocation to the subject development remains valid at the time of the request for Regional clearance of this condition.
- 13.11 The Owner shall provide an electronic set of the final engineering drawings showing the water and wastewater infrastructure for the proposed development to Development Services and Infrastructure Asset Management for record.
- 13.12 The Owner shall provide confirmation that all MTO requirements have been satisfied.
- 13.13 Prior to and concurrent with the submission of the subdivision servicing application (MECP) to the area municipality, the Owner shall provide a set of engineering drawings, for any works to be constructed on or adjacent to the York Region road, to Development Engineering, Attention: Manager, Development Engineering, that includes the following drawings:
- a) Functional Servicing Report
 - b) Grading and Servicing;
 - c) Construction Access Design;
 - d) Utility and underground services Location Plans;
 - e) Traffic Control/Management Plans;
 - f) Erosion and Siltation Control Plans;
 - g) Landscaping Plans, including tree preservation, relocation and removals;
 - h) Sidewalk locations, concrete pedestrian access to existing and future transit services and transit stop locations as required by York Region Transit/Viva

- i) Water supply and distribution report;
- j) Engineering drawings showing plan and profile views of proposed works related to connections to or crossing of Regional watermain or sewer, including the following, as applicable:
 - Disinfection Plan
 - MECP Form 1- Record of Watermains Authorized as a Future Alteration; and
- k) Engineering drawings showing plan and profile views of proposed sewers and watermains and appurtenances, including manholes, watermains, valves, hydrants, etc. proposed within the subdivision.

13.14 The Owner shall engage the services of a consultant to prepare and submit for review and approval, a noise study to the satisfaction of Development Engineering recommending noise attenuation features.

13.15 The Owner shall demonstrate, to the satisfaction of Development Engineering, that all local underground services will be installed within the area of the development lands and not within York Region's road allowance. If a buffer or easement is needed to accommodate the local services adjacent to York Region's Right-of-Way, then the Owner shall provide a satisfactory buffer or easement to the Area Municipality, at no cost to the Region.

13.16 The Owner shall provide an executed copy of the subdivision agreement with the local municipality to the Regional Corporate Services Department, outlining all requirements of the Corporate Services Department.

13.17 For any applications (Site Plan or Zoning By-law Amendment) deemed complete after January 1, 2020, the Owner shall enter into a Development Charge Rate Freezing Agreement with York Region to freeze/lock in the Development Charge rate at the time the site plan application or Zoning By-law Amendment is deemed complete submission, satisfy all conditions, financial and otherwise, and confirm the date at which Regional development charge rates are frozen; Regional Development Charges are payable in accordance with Regional Development Charges By-law in effect at the time that Regional development charges, or any part thereof, are payable. Please contact Fabrizio Filippazzo, Manager, Development Financing Administration to initiate a Development Charge Agreement with York Region.

13.18 The Regional Corporate Services Department shall advise that Conditions 13.1 to 13.17 inclusive, have been satisfied.

14.0 Ministry of the Environment Conservation and Parks (MECP)

14.1 The Owner shall agree in the subdivision agreement to satisfy any requirements with respect to the Provincial Endangered Species Act.

15.0 Heritage

- 15.1 The Owner covenants and agrees to implement any measures recommended by the archaeological assessment, to the satisfaction of the Province.
- 15.2 Should previously unknown or unassessed archaeological resources be uncovered during development, they may be a new archaeological site and therefore subject to Section 48(1) of the *Ontario Heritage Act*. The proponent or person discovering the archaeological resources must cease alteration of the site immediately and engage a licensed consultant archaeologist to undertake archaeological fieldwork, in compliance with Section 48(1). Any person discovering human remains must immediately notify the police or coroner and the Registrar of Cemeteries, Ministry of Government Services.
- 15.3 The Owner covenants and agrees to retain both the Levi Heise and the Christian Heise Houses (the ‘Heritage Buildings’), known municipally as 2716 and 2730 Elgin Mills Road and relocate the Heritage Buildings to Lots 1 and 2;
- 15.4 The Owner covenants and agrees to implement measures to protect the Heritage Buildings through the following means:
- a) The Owner shall provide a \$500,000.00 Letter of Credit to ensure the preservation of the Heritage Buildings. The letter of credit shall be drawn on by the City in the event of non-compliance with the provisions of this Agreement and shall not be released until the following have been addressed to the satisfaction of the Director of Planning and Urban Design:
- i. construction and grading on the subject lands and adjacent lots, and roads have been completed to the satisfaction of the City(Commissioner of Development Services),
 - ii. the building has been connected to municipal services,
 - iii. the exterior restoration of the Heritage Buildings are complete,
 - iv. the buildings meet the basic standards of occupancy as confirmed by the Building Standards Department, and
 - v. all other heritage requirements of the Subdivision Agreement have been completed.
- 15.5 The Owner shall provide at their expense a legal survey of the Heritage Buildings to facilitate the registration of the Heritage Designation By-law and Heritage Easement Agreements on the proposed lots within six months of the registration of the Plan of Subdivision.
- 15.6 The Owner shall enter into Heritage Easement Agreements with the City for the Heritage Buildings within six months of the registration of the Plan of Subdivision.
- 15.7 The Owner is to permit the amendment of the existing Heritage Designation By-laws currently protecting the buildings under Part IV of the Ontario Heritage Act within six months of the registration of the plan of subdivision. The amended by-law shall reflect the current manner in which these by-laws are written (statement of cultural heritage value and

a description of heritage attributes to be protected – interior and exterior) plus any necessary revisions to the legal description.

- 15.8 The Owner shall obtain Major Heritage Permits from the City for the relocation of the Heritage Buildings containing details on the drawings such as driveway location, a landscape plan, garage and any other accessory buildings, and a Conservation Plan with detailed elevations outlining the proposed restoration and any additions and alteration to be carried out on the Heritage Buildings.
- 15.9 The Conservation Plans for the Heritage Buildings are to be prepared by a qualified professional with demonstrated experience in heritage restoration projects.
- 15.10 The Owner will ensure that the architectural design of the elevations of the adjacent development are compatible with the restored Heritage Buildings.
- 15.11 The Owner shall ensure that the height of the first floors of the Heritage Buildings above grade after the relocation onto their new foundations is reflective of the first floor heights prior to relocation.
- 15.12 The Owner shall ensure that the historic front of the Heritage Buildings retain a front yard appearance to fencing limited to a low residential wooden picket fence rather than privacy fencing.
- 15.13 The Owner shall implement the approved Conservation Plans for the Heritage Buildings.
- 15.14 The Owner shall complete the exterior restoration of the Heritage Buildings, connect of all municipal services to the allocated lot (water, gas, hydro, cable, telephone etc.) and ensure basic standards of occupancy as confirmed by Building Standards Department within two years of registration of the plan of subdivision.
- 15.15 The Owner covenants and agrees to implement the following measures recommended by the City to maintain and secure the Heritage Buildings:
 - a) To maintain the Heritage Building in good and sound conditions at all times prior to and during the development of the property;
 - b) To undertake the following to prevent vandalism and deterioration:
 - c) secure and protect the building from damage through the requirements outlined in the City of Markham's Property Standards By-law (Part III – Heritage Buildings), and the Keep Markham Beautiful (Maintenance) By-law including Section 8 – Vacant Heritage Property;
 - d) erect a "No-trespassing" sign in a visible location on the property indicating that the Heritage Building is to be preserved onsite and should not be vandalized and/or scavenged; and

- e) install a 8 ft high fence around the perimeter of the house to protect the Heritage Buildings until the completion of construction in the vicinity or the commencement of long-term occupancy of the Heritage Buildings as confirmed by City (Heritage Section) staff.

15.16 The Owner covenants and agrees to prepare and implement a marketing plan, to the satisfaction of the Commissioner of Development Services, within six months of the registration of the Subdivision. The marketing plan shall detail the ways and means by which the Heritage Buildings will be marketed to prospective purchasers, including, but not limited to, the following components:

- a) the market value price;
- b) statistics about the lot and building;
- c) zoning and land use information about the property;
- d) restoration requirements and other municipal requirements;
- e) how reasonable access to the property will be provided to prospective purchasers;
- f) the means by which the property will be marketed (advertising, listing with a realtor, etc)

15.17 The Owner covenants and agrees to provide notice and commemoration of the Heritage Buildings through the following means:

- a) provide and install at its cost, an interpretative baked enamel plaque for the Heritage Buildings, in a publicly visible location on the property. The plaque shall be designed according to the specifications of the "Markham Remembered" program and outline the history of the Heritage Buildings. Details of the design and location of the plaque are to be submitted for review and approval of the City (Heritage Section);
- b) include the following notice in any agreement for sale or lease of the Heritage Buildings:

"PURCHASERS/TENANTS ARE ADVISED THAT THIS PROPERTY IS DESIGNATED PURSUANT TO THE ONTARIO HERITAGE ACT AND IS SUBJECT TO A HERITAGE EASEMENT AGREEMENT WITH THE CITY OF MARKHAM. ANY PROPOSED ADDITIONS OR ALTERATIONS TO THE BUILDING OR PROPERTY SHALL BE SUBJECT TO REVIEW AND APPROVAL OF PLANS BY THE CITY."

16.0 Rogers

16.1 The Owner shall agree in the Subdivision Agreement to (a) permit all CRTC-licensed telecommunications companies intending to serve the Communications Service Providers facilities within the Subdivision, and (b) provide joint trenches for such purpose.

16.2 The Owner shall agree in the Subdivision Agreement to grant, at its own cost, all easements required by the Communications Service Providers to serve the Subdivision, and will cause the registration of all such easements on title to the property.

16.3 The Owner shall agree in the Subdivision Agreement to coordinate construction activities with the Communications Service Providers and other utilities, and prepare an overall composite utility plan that shows the locations of all utility infrastructure for the Subdivision, as well as the timing and phasing of installation.

16.4 The Owner shall agree in the Subdivision Agreement that, if the Owner requires any existing Rogers facilities to be relocated, the Owner shall be responsible for the relocation of such facilities and provide where applicable, an easement to Rogers to accommodate the relocated facilities.

17.0 Bell

17.1 The Owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.

17.2 The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.

18.0 Ministry of Transportation (MTO)

18.1 That prior to final approval, the Owner shall submit a detailed stormwater management report for Ministry of Transportation review and approval, in accordance with the MTO drainage guidelines.

18.2 That prior to final approval, the owner shall submit detailed site grading / servicing / drainage / electrical (including photometric) plans for Ministry of Transportation review and approval.

18.3 That prior to final approval, the owner shall submit a traffic impact study for Ministry of Transportation review and approval, in accordance with MTO's March 2023 TIS Guidelines.

18.4 That prior to final approval, the owner shall enter into a legal agreement with the Ministry of Transportation whereby the owner agrees to assume financial responsibility for the construction of all associated highway improvements required for site development, if identified in the approved Traffic Impact Study. (Only if the Ministry of Transportation determines that the development would trigger highway improvements).

18.5 That prior to final approval, the owner shall submit a draft M-Plan for MTO review and approval.

19.0 External Clearances

19.1 Prior to final approval of the draft plan of subdivision, clearance letters, containing a brief statement detailing how conditions have been met, will be required from authorized agencies as follows:

- a) Canada Post shall advise that Conditions 12.1 to 12.6 have been satisfied.
- b) The Regional Municipality of York Planning Department shall advise that Conditions 13.1 to 13.18 have been satisfied.
- c) Rogers shall advise that Conditions 16.1 to 16.4 have been satisfied.
- d) Bell shall advise that Conditions 17.1 to 17.2 have been satisfied.
- e) The Ministry of Transportation shall advise that Conditions 18.1 to 18.5 have been satisfied.

Dated: S e p t e m b e r 1 0 , 2 0 2 4

Stephen Lue, Senior Development Manager